

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUMMERHILL PLACE, LLC, GRAN, INC.,
and RITA LOVEJOY,

Defendants.

No.: 2:10-CV-01150-JLR

Stipulated Protective Order

Noted: November 18, 2010

This Stipulated Protective Order is entered into by plaintiff United States of America and defendants Summerhill Place, LLC, GRAN, Inc., and Rita Lovejoy, by and through their attorneys of record, for the purpose of efficient and reasonable discovery in this matter while appropriately protecting the confidentiality of sensitive information in documents produced and material disclosed in this litigation. The undersigned attorneys are also parties to this Stipulated Protective Order.

The Parties hereby stipulate and Court orders as follows:

1. "Confidential" material and documents is that material and those documents that any Party designates as Confidential because it contains confidential, proprietary, or trade secret information or other information that is subject to privacy statutes such as the

1 Privacy Act of 1974, 5 U.S.C. § 522a. It shall include those documents later identified by the
 2 producing Party as Confidential even if produced prior to the execution of this Stipulated
 3 Protective Order. With respect to information that may be subject to the Privacy Act:

4 a. In the course of discovery in this case, the Parties may request
 5 documents that contain information that is appropriately deemed confidential, such as
 6 information which is subject to the Privacy Act of 1974, 5 U.S.C. § 522a, or protected
 7 by other laws. Such documents sought may contain highly personal information
 8 about parties and non-parties, which could result in unnecessary intrusion upon their
 9 privacy interests.

10 b. While disclosure of such information ordinarily is prohibited in civil
 11 litigation, the Privacy Act provides, as an exception, that such records may be
 12 released “pursuant to the order of a court of competent jurisdiction.” 5 U.S.C. §
 13 552a(b)(11). This Stipulated Protective Order, as an order of this Court, therefore,
 14 would provide a basis for release of the requested information pursuant to the Privacy
 15 Act and Fed. R. Civ. P. 26(c), as well as insulate the plaintiffs from potential liability
 16 for improper disclosure. *See* 5 U.S.C. § 552a(g)(1).

17 2. A Party shall only designate as Confidential material that the Party in good
 18 faith believes is confidential. Mass, indiscriminate designations are prohibited under this
 19 Stipulated Protective Order. The Party who designates any material as Confidential bears the
 20 burden of establishing the confidential or protected status of such material in any situation in
 21 which the designation is at issue. All such documents and all information therein shall not be
 22 disclosed to others except as permitted under this Stipulated Protective Order, and are limited
 23 to use or disclosure only for the sole purpose of this lawsuit.

24 3. None of the confidentiality restrictions in this Stipulated Protective Order shall
 25 apply to information that (i) exists in the public records, (ii) becomes available to the Parties
 26 or their representatives on a non-confidential basis from a source that is legally permitted to

1 divulge or disclose such information.

2 4. Regardless of whether a party designates a document as “Confidential” under
3 this Stipulated Protective Order, if a document contains information that may not be filed in
4 the public record under Federal Rule of Civil Procedure 5.2, the Parties will comply with
5 Rule 5.2 for redacting such information.

6 5. The terms “Party” and “Parties” shall refer to plaintiff United States of
7 America and defendants Summerhill Place, LLC, GRAN, Inc., and Rita Lovejoy.

8 6. The term “Counsel” shall be restricted to those attorneys who need the
9 “Confidential Documents” in order to work on behalf of a Party.

10 7. The Parties may designate material and documents as “Confidential” as
11 follows:

12 a. In the case of documents, interrogatory answers, responses to requests
13 to admit, and the information in these, the designation shall be made by placing the
14 phrase “Confidential – Subject to Protective Order” on each page. Material in non-
15 paper form may be designated in a manner that will effectively ensure that it will be
16 treated as confidential under this Stipulated Protective Order.

17 b. Material and documents designated as Confidential may be used in
18 depositions. A Party may designate a portion of a transcript of a deposition or
19 exhibits that include Confidential material as Confidential, and may do so on the
20 record during the deposition or within 15 court days after receipt of the transcript.

21 8. Documents identified by a Party as “Confidential” may not be used by the
22 parties receiving the designated confidential documents in any other investigation and/or
23 action other than the present lawsuit and shall not be disclosed by counsel to any person
24 other than:

25 a. Counsel, and their secretaries, paralegals, administrative staff,
26 contractors (other than experts and consultants identified in (b) below), and other

1 personnel;

2 b. Experts and consultants necessary to assist such Counsel in
3 prosecuting, defending, or settling the claims asserted by the Parties, and who have
4 signed an Acknowledgment in the form attached as Attachment A;

5 c. Any Party or employee, officer, or director of such Party, including but
6 not limited to, investigators, insurers or reinsurers, who have signed an
7 Acknowledgment in the form attached as Attachment A, to the extent deemed
8 necessary by Counsel for the prosecution, defense, or settlement of the claims
9 asserted by the Parties;

10 d. Any deponent, prospective witness, or trial witness who has signed an
11 Acknowledgment in the form attached as Attachment A.

12 e. The judge, court personnel, court reporters, and similar personnel;

13 f. Any person who was involved in the preparation of the document or
14 who received or reviewed it prior to the litigation;

15 g. Other persons who are authorized in writing by agreement of all Parties
16 and who sign an Acknowledgment in the form attached as Attachment A.

17 9. Counsel shall fully apprise and advise their experts, Parties, and employees of
18 Parties of all conditions and terms of this Stipulated Protective Order. Copies of this
19 Stipulated Protective Order shall be provided to all experts, Parties, and employees of Parties
20 along with the admonition that said experts, Parties, and employees of Parties are fully bound
21 by this Order. No Party or Counsel may disclose Confidential material, documents, or
22 discovery responses to any of the persons identified in paragraphs 8.b. through 8.d. or 8.g.
23 above without first obtaining the agreement of such person in the form attached as
24 Attachment A.

25 10. Counsel may hire outside document production services to copy, scan, or
26 handle "Confidential" materials as necessary without prior knowledge or consent of the other

1 Parties and without a requirement that such services or their employees sign Attachment A.

2 11. Documents containing Confidential material shall not be filed with the Court
3 unless it is reasonably necessary to do so for purposes of trial, motions, or other matters. The
4 filing party shall take all reasonable steps to file Confidential material under seal in
5 compliance with Federal Rule of Civil Procedure 26(c) and Local Rules CR 5(g) and CR
6 26(c).

7 12. If a Party wishes to use Confidential material to support or oppose a motion or
8 at trial, the following procedures shall apply:

9 a. The Party submitting the material shall submit to the Court a motion or
10 stipulation to seal in accordance with Local Rule CR 5(g)
11 contemporaneous with the filing of the Confidential material under seal
12 and shall adhere to all requirements in Local Rule CR 5(g) for filing
13 such material under seal. If the Party that designated the material as
14 Confidential is the party filing the motion to seal, that Party must make
15 the showing required under Local Rule CR 5(g) in its motion to seal.

16 b. If the Party that designated the material as Confidential is not the party
17 filing the motion to seal, that Party shall make the showing required
18 under Local Rule CR 5(g) in its response to the motion to seal.

19 c. Any motion to seal filed under this Stipulated Protective Order shall be
20 noted for consideration in accordance with Local Rule CR 7(d)(2)(C).
21 The Clerk of the Court shall maintain the confidential materials under
22 seal until the Court rules on the motion to seal.

23 d. In the alternative, a Party seeking to submit material designated as
24 Confidential may provide the designating party with a redacted version
25 of the designated document before it is filed. If the designating party
26 agrees in writing, then the redacted version may be filed without being

1 sealed.

2 13. This Stipulation shall be without prejudice to the right of any party to apply to
3 the Court to:

4 a. Seek a modification of the Stipulated Protective Order or seek a further
5 protective order;

6 b. Challenge at any time whether any particular information or document
7 is or is not confidential;

8 c. Seek other relief from any other obligation under this Stipulated
9 Protective Order by showing the Court appropriate grounds therefore.

10 14. This Agreement may be amended by leave of the Court or by written
11 stipulation of counsel, whether or not filed with the Court.

12 15. At the conclusion of this case, all appeals, or other termination of proceedings,
13 all Confidential material and documents produced under the provisions of this Stipulated
14 Protective Order (and all copies, including all copies provided to a person listed in
15 paragraphs 8(b) through 8(d) and 8(g)) and all extracts and summaries of such documents
16 shall be returned to Counsel for the producing Party or destroyed. This Stipulated Protective
17 Order, insofar as it restricts the communication and use of the material and documents
18 produced under this Stipulated Protective Order or information obtained from such
19 documents, shall continue to be binding after the conclusion of this Action.

20 **Stipulation**

21 The Parties hereby stipulate to the foregoing.
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26

1 DATED: November 18, 2010

2 Bullivant Houser Bailey PC

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Order

IT IS SO ORDERED

Dated this _____ day of _____, 2010

HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

12919262.1

Attachment A

Acknowledgment

The undersigned hereby acknowledges that he or she has read the Stipulated Protective Order entered by the Court on _____ in *United States of America v. Summerhill Place, LLC, GRAN, Inc., and Rita Lovejoy*, U.S. District Court, Western District of Washington, Case No. 2:10-CV-01150-JLR; that he or she is one of the persons described in paragraph 8.b. through 8.d. or 8.g. of the Stipulated Protective Order as authorized to receive Confidential material, and that he or she has reads and fully understands and agrees to abide by the terms of the and requirements of the Stipulated Protective Order.

(Signature)

(Printed Name)

(Title or Position)

(Company)

(Date)

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the persons listed below:

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